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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1906.

No. 158.

HENRY F. IGLEHART AND MARY I. POLK, APPELLANTS,

vs.

J. HOWARD IGLEHART, EXECUTOR OF THE LAST WILL AND TESTAMENT OF ANNIE E. I. ANDREWS, DECEASED.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

FILED DECEMBER 8, 1905.

(20,008.)

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 14, 1906.

In the Court of Appeals of the District of Columbia.

HENRY F. IGLEHART ET AL., Appellants,
vs.
J. HOWARD IGLEHART, Executor, &c.
No. 1593.

a Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Late of the District of Columbia, Deceased, Complainant,
vs.
HENRY F. IGLEHART, MARY I. POLK, Fannie Gieson, Genevi-ve Iglehart, Lillie Mimms, Edwin E. Wilson, Edward E. Hewitt, Jessie Hewitt, Pinson Hewett, Ernest Hewett, M. B. Lee, Frank F. Lee, Walter R. Lee, Jennie Iglehart, Lucy Iglehart, and The Greenwood Cemetery Company of Brooklyn, New York, Trustees, a Body Corporate, Defendants.
No. 24938. In Equity.

UNITED STATES OF AMERICA,
District of Columbia, } *ss:*

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Original Bill.*

Filed October 3, 1904.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Late of the District of Columbia, Deceased, Complainant,

vs.

HENRY F. IGLEHART, MARY I. POLK, FANNIE GIESON, Genevieve Iglehart, Lillie Mimms, Edwin E. Wilson, Edward E. Hewitt, Jessie Hewitt, Pinson Hewett, Ernest Hewett, M. B. Lee, Frank F. Lee, Walter R. Lee, Jennie Iglehart, Lucy Iglehart, and The Greenwood Cemetery Company of Brooklyn, New York, Trustees, a Body Corporate, Defendants. } No. 24938.

To the supreme court of the District of Columbia, holding an equity court for said District:

The complainant complains as follows:

1. That he is a citizen of the United States residing in the State of Maryland and sues as the executor of the estate of Annie E. I. Andrews, late of the District of Columbia, deceased, under letters of administration issued by the supreme court of the District of Columbia holding a probate court, said letters bearing date March 28th, 1904, and also sues in his own right as the son and heir of J. Howard Iglehart, lately deceased; that the defendants H. F. Iglehart, is a resident of Cameron, Texas; Mary I. Polk is a resident of Washington city, District of Columbia; Fannie Gieson and Gene-

2 vieve Iglehart are residents of San Marcus, State of Texas; Lillie Mimms is a resident of Thurber, Texas; Edwin E. Wilson is a resident of Tyler, Texas; Edward E. Hewitt is a resident of Rockdale, Texas; and that Emma Hewitt, Jesse Hewitt, Pinson Hewett, Frank F. Lee, Walter R. Lee are all residents of San Marcus, Texas; and that said Jessie Hewitt and Pinson Hewitt are infants under the age of twenty-one years; Ernest Hewitt, who is also under the age of twenty-one years, resides at Navasota, Texas; M. B. Lee resides at Snyder, Indian Territory; that Jennie Iglehart and Lucy Iglehart both reside in Baltimore city, State of Maryland; and the said Greenwood Cemetery Company of Brooklyn, New York is a corporation of the State of New York, and that all the natural parties, both complainants and defendants, are of full age, unless specifically stated to the contrary:

2. That Mary I. Polk was a full sister of Annie E. I. Andrews, deceased, H. F. Iglehart a full brother of said deceased; your complainant a son of John H. Iglehart, a full brother of said deceased;

Jennie Iglehart is the widow and Lucy Iglehart the only daughter of the said John H. Iglehart, your complainant and the said Lucy being the only heirs at law of John H. Iglehart, deceased, who was a full brother of the said Annie E. I. Iglehart; that Fannie Gieson and Genevieve Iglehart are the only daughters of —— Iglehart, who was a half brother of the said Annie E. I. Andrews, deceased, and Lillie Mimms, Edwin E. Wilson, Edward E. Hewitt, Emma Hewitt, Jessie Hewitt, Pinson Hewitt, Ernest Hewitt, M. B. Lee, Frank F. Lee and Walter R. Lee are grandchildren of the said —— Iglehart, half brother of the said Annie E. I. Andrews and as such are the only heirs at law of the said —— Iglehart.

3. That the said Annie E. I. Andrews departed this life during the month of April, that is on April 21st 1903, leaving a last
3 will and testament in writing, a compared copy of which is herewith filed as part hereof marked Exhibit "A;" that all the specific bequests of personalty have been duly delivered by your complainant and all moneys paid specifically bequeathed by her will and your complainant is anxious to close up the estate of said deceased and pay or raise to be paid the sum of five thousand dollars to be expended as required in the tenth item of said will and also to carry out the twelfth item of said will, if the bequests and devises made to the said Greenwood Cemetery Company of Brooklyn, New York, as trustee by the first, tenth and twelfth items of said will be good and valid devises or bequests and is desirous only of doing what is his duty in the premises as executor of said deceased.

4. That the only real estate which the deceased died seized and possessed of known to your complainant is the house No. 88 "M" street, northwest, Washington; which said house is in the possession of Jennie Iglehart, the widow of John H. Iglehart; she and her late husband having taken possession of the same as soon as the will was admitted to probate.

5. Your complainant further shows that counsel learned in the law, who represents a number of the heirs at law of the said Annie E. I. Andrews insists that the bequests and devises to the Greenwood Cemetery Company of Brooklyn, New York, are void as being in violation of the rule against perpetuities and it is also claimed that said devises and bequests are void by reason of uncertainty and your complainant has been advised by his counsel that he should come into this court and ask its interposition to have said will construed in accordance with law and be directed in the distribution of the said estate and protected in the performance of his duties as executor aforesaid against the rights,
4 claims and demands of any and all persons having or claiming to have any interest in said estate or any claims and demands under said will as legatees, devisees, heirs or representatives, and your complainant is advised and believes and therefore avers that he is entitled to have said will construed and be directed by this court in what manner he shall distribute said estate and all the parties who are or can be interested under the said will or are or can

be interested as heirs at law or distributees of the said estate (all of whom, as far as known to your complainant, have been made parties) should come into this court and answer this bill and give notice of their respective claims that the same may be adjudicated and settled.

Prayer.

The complainant, therefore, prays as follows:

I. That the United States writ of subpœna may be issued against the said Mary I. Polk of the District of Columbia, commanding her to be and appear in this court and answer the exigencies of this bill.

II. That an order of publication, in the usual form, may be passed requiring the appearance of all the said non-resident defendants.

III. That said will be construed by this court and your complainant may be advised and directed how to distribute the said estate and be protected in the performance of the duties of his executorship.

IV. That if necessary your complainant may have leave to read from the records of the office of the register of wills any and all papers relating to the estate of the said deceased and from the office of the recorder of deeds for the District of Columbia deed or deeds referring to the real estate of which the said Annie E. I. Andrews died seized and possessed or entitled to.

5 V. That the complainant may have such other and further relief as the nature of his case may require.

The defendants to this bill are Henry F. Iglehart, Mary I. Polk, Fannie Gieson, Genevieve Iglehart, Lillie Mimms, Edwin E. Wilson, Edward E. Hewitt, Emma Hewitt, Jesse Hewitt, Pinson Hewitt, Ernest Hewitt, M. B. Lee, Frank F. Lee, Valter R. Lee, Jennie Iglehart, Lucy Iglehart and The Greenwood Cemetery Company of Brooklyn, New York, body corporate.

And as in duty bound,

C. H. STANLEY,
Solicitor for Complainant.

J. HOWARD IGLEHART,
Complainant.

STATE OF MARYLAND, *Baltimore City,* } *To wit:*

I, J. Howard Iglehart, do solemnly swear that I have read the aforegoing bill by me subscribed and know the contents thereof and that the facts therein stated upon my personal knowledge are true and that the facts stated upon information and belief I believe to be true.

J. HOWARD IGLEHART.

Subscribed and sworn to before me this 1st day of October, 1904.

As witness my hand and seal.

EDWARD S. STANLEY,
Notary Public.

[SEAL.]

6 I, Annie E. I Andrews widow of E. L. Andrews, residing in the city of Washington, District of Columbia, being of sound and disposing mind and memory, do make, publish and declare this to be my last will and testament, hereby revoking all former wills made be me, that is to say:

First. I give, devise, and bequeath unto the Greenwood Cemetery Company, of Brooklyn, New York, as trustees, my real property, consisting of a house and lot, known and designated as house No. 88 M street, northwest, in the city of Washington, District of Columbia, to be held by them in trust for and to the use of my brother, J. H. Iglehart, and his wife, Jennie Iglehart, of Baltimore, Maryland, during their life or the life of either of them; provided, they shall keep the said property in repair and pay the taxes thereon. At their death, or upon their failure to comply with the condition to keep said property in repair and pay the taxes thereon, it is my will and desire that the said property shall be sold, and the proceeds of such sale shall be invested in United States securities, the interest or income from said investment to be used by the Greenwood Cemetery Company, aforesaid, as trustees, for the purpose of keeping the Andrews cemetery lot in perpetual good order and condition.

Second. I give, devise and bequeath unto my brother, J. H. Iglehart, and his wife, Jennie Iglehart, of Baltimore, Maryland, my entire household effects, consisting of carpets, furniture, silverware, glassware, chinaware, bedding, books, pictures, and clothing.

7 Third. To my niece, Lucy Iglehart, daughter of J. H. Iglehart of Baltimore, Maryland, I give and bequeath my gold watch, also my gold bracelets, also my solita-re diamond earrings, also my opal and diamonds rings, also my plain opal ring.

Fourth. To my nephew, George Andrews, son of S. M. Andrews, of Washington, D. C., I give and bequeath the gold watch and also the diamond stickpin which belonged to my husband during his life-time.

Fifth. To my nephew, Howard Iglehart, son of J. H. Iglehart, of Baltimore, Maryland, I give and bequeath one of my solitaire diamond rings.

Sixth. To my cousin D. T. Iglehart, Jr., son of D. T. Iglehart, of Austin, Texas, I give and bequeath the other of my solitaire diamond rings.

Seventh. To my brother, H. F. Iglehart, of Cameron, Texas, in addition to what he has already obtained from me, I give and bequeath the sum of one dollar and no more.

Eighth To my sister, Mary I. Polk, of Washington, D. C., in ad-

dition to what she has already received from me, I give and bequeath the sum of one dollar and no more.

Ninth. To Martha Mundell, of Washington, D. C., whose kindly care and attention to me has been deeply appreciated, I give and bequeath the sum of one hundred dollars.

Tenth. It is my will, and I order and direct that five thousand dollars be raised out of my estate to be expended in erecting
8 a suitable monument at the grave of my dearly beloved husband, E. L. Andrews, in Greenwood cemetery, Brooklyn, New York.

Eleventh. I order and direct that my just debts shall be paid with convenient speed.

Twelfth. It is my will and I order and direct that all the rest and residue of my estate, real, personal, and mixed, wheresoever it may be found, and of whatsoever it may consist, shall be converted into cash, and said cash invested in United States securities, the interest and income from such securities shall be used by the said Greenwood Cemetery Company, of Brooklyn, New York, as trustees, in addition to and together with the trust fund hereinbefore mentioned in clause one of this my last will, for the purpose and to the benefit of beautifying and keeping the aforesaid Andrews' cemetery-lot in perpetual good order and condition.

Thirteenth. It is my will, and I order and direct that upon my death, my body shall be cremated, and the ashes placed in the grave with the remains of my beloved husband in Greenwood cemetery, Brooklyn, New York.

Fourteenth. I do hereby constitute and appoint, D. T. Iglehart, Jr. of Austin, Texas, and Howard Iglehart of Baltimore, Maryland, as executors of this my last will and testament, and it is my will that they shall not be required to give any bond for the full and faithful performance of the duties entrusted to them by this will.

In witness whereof, I have hereunto signed and sealed this instrument, at Washington, D. C., and do hereby publish and de-
9 clare the same to be my last voluntary will and testament on this nineteenth day of March, A. D. 1903.

ANNIE E. I. ANDREWS.

At Washington, D. C., on this 19th day of March, A. D. 1903, the above-named executrix, Annie E. I. Andrews, signed and sealed this instrument, and published and declared the same to be her last will and testament; and we, in her presence, and in the presence of each other, have hereunto subscribed our names as witnesses—

Witnesses:

JANE PAGE.
GEO. N. PAGE.
EULALIA M. COLCORD.

10 *Separate Answer of Green-wood Cemetery.*

Filed December 19, 1904.

In the Supreme Court of the District of Columbia, Holding an Equity Court.

J. HOWARD IGLEHART, Executor, etc., Complainant, *vs.* HENRY F. IGLEHART ET AL., Defendants. } In Equity. No. 24938.

Separate Answer of the Green-wood Cemetery, a Corporation, to the Bill of Complaint Exhibited Against It and Others in This Cause.

This respondent now and at all times hereafter saving to itself all and all manner of benefit or advantage of exception or otherwise that can or may be had or taken to the many errors, uncertainties and imperfections in the said bill contained, for answer thereto, or to so much thereof as this respondent is advised it is material, or necessary for it to make answer to, answering says:

1. Answering paragraph 1 of the bill, this respondent admits as true so much of the averments thereof as charge the citizenship and residence of the complainant and the capacities in which he files the said bill, and that this respondent is a corporation of the State of New York, but as to the other matters and things therein charged this respondent is not informed and can neither admit nor deny the same.

11 2. Answering paragraph 2 of the bill, this respondent says that it knows nothing of its own knowledge of the statements therein made touching the names, ages, and relationship to Annie E. I. Andrews, of the other respondents named in the said bill, and therefore can neither admit nor deny the same, but requires strict proof thereof if the same be deemed material.

3. Answering paragraph 3 of the bill, this respondent admits as true that Annie E. I. Andrews departed this life on the 21st day of April, 1903, leaving a last will and testament in writing, a copy of which is attached to said bill of complaint.

Further answering said paragraph this respondent says that it does not know of its own knowledge what specific bequests of personalty or other legacies have been paid by the complainant but, this respondent says that none of the bequests or devises to it, as provided under the terms of the said last will and testament, have been paid by complainant as executor thereunder or by any one else. And further answering said paragraph this respondent denies that there is any doubt as to the validity of the bequests and devises to

it, but says that the bequests and devises to it under said will are in all respects good and valid.

4. Answering paragraph 4 of the bill, this respondent says that it knows nothing of its own knowledge as to whether the premises known as No. 88 M street northwest, in the city of Washington, District of Columbia, is the only real estate of which Annie E. I.
12 Andrews died seized and possessed, and therefore cannot admit nor deny the same, but requires strict proof thereof if the same be deemed material.

Further answering said paragraph this respondent says that by virtue of the will of the said Annie E. I. Andrews, this respondent is the owner in trust of the said real estate known as premises No. 88 M street, northwest, in the city of Washington, District of Columbia.

5. Answering paragraph 5 of the bill, this respondent denies that the bequests and devises to this respondent as trustee are void as being in violation of the rule against perpetuities, or by reason of uncertainty, or for any other reason whatever, but this respondent is advised and believes and therefore alleges that said bequests and devises are in all respects valid in law, and that this respondent is entitled to have the complainant, as executor under the said will of the said Annie E. I. Andrews, carry out the provisions of the said will, and deliver to this respondent as trustee all the property in his possession, or under his control as said executor to which it is entitled as trustee under the provisions of the said will.

And now having fully answered this respondent prays to be hence dismissed with its reasonable costs in this behalf most wrongfully sustained.

THE GREEN-WOOD CEMETERY,
By SAM. CAREY, *Comptroller.*

BERRY & MINOR,
HUGH B. ROWLAND,
Solicitors for Respondent.

13 STATE OF NEW YORK, } ss:
County of New York, }

Samuel Carey, being first duly sworn according to law, deposes and upon oath says that he is the comptroller of the Green-wood cemetery, a corporation, and that the matters and things stated in the foregoing answer of the Green-wood Cemetery upon personal knowledge are true and those things stated upon information and belief affiant believes to be true.

SAM. CAREY.

Sworn to and subscribed before me this 16th. day of December, A. D. 1904.

JOHN VIMONT LYLE,
Notary Public, N. Y. Co.

[SEAL.]

EXHIBIT A TO ANSWER.

Filed May 1, 1905.

Act Incorporating the Green-wood Cemetery and Amendments, etc.

* * * * * * *

Authority to hold grants and bequests in trusts.

SEC. 6. The said corporation may take and hold any grant, donation, or bequest of property upon trust, to apply
14 the same or the income thereof, under the direction of the board of trustees for the improvement or embellishment of the said cemetery, or for the erection, repair, preservation,

Trust purposes.

or renewal of any tomb, monument, or gravestone, fence, railing, or other erection, or for the planting and cultivation of trees, shrubs, flowers or plants, in or around any cemetery lot, or for improving the said premises in any other manner or form consistent with the design and purpose of this act, according to the terms of such grant, donation or bequest.

* * * * * * *

Answer of Defendant.

Filed January 9, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Late of the District of Columbia, Deceased, Complainant, *vs.* H. F. IGLEHART, MARY I. POLK, FANNIE Gieson, Genevive Iglehart, Lillie Mimms, Edwin E. Wilson, Emma Hewitt, Edward E. Hewitt, Jesse Hewitt, Pinson Hewitt, Ernest Hewitt, M. Lee, Frank F. Lee, Walter R. Lee, Jennie Iglehart, Lucy Iglehart, and "The Greenwood Cemetery Company of Brooklyn, New York," Trustees, a Body Corporate, Defendants.	Equity. No. 24938.

The joint answer of Henry F. Iglehart, Mary I. Polk, Fannie
15 Gieson, Genevive Iglehart, Lillie Mims, Edwin E. Wilson, Emma Hewitt, Frank F. Lee, Walter R. Lee, and M. B. Lee.

Your respondents answering say:

1. That the citizenship and residence of complainant are admitted and also the capacity in which he sues. That the residence and

minority of the several defendants are true as alleged as well as the incorporation of the Green-wood Cemetery Company of Brooklyn, New York.

2. That it is true as alleged that the defendant Mary I. Polk, and H. F. Iglehart were a full sister and brother of the late Annie E. I. Andrews, deceased. That the relationship of the other defendants is admitted as alleged.

3. That it is true that the said Annie E. I. Andrews departed this life about April 21, 1903, leaving a last will and testament, and your respondents believe that practically all the specific bequests of personalty and of money have been delivered and paid as requested in said will.

4. That it is admitted that the only real estate of which the said Annie E. I. Andrews died seized and possessed is house No. 88 M street, in the city of Washington, District of Columbia. That respondents are not informed of the facts, but they do not doubt that said house is in the possession of Jennie Iglehart, the wife of the late J. Howard Iglehart and that she and her late husband took possession of the same as soon as the will was admitted to probate and record.

16 5. That it is true that respondents claim that the bequests and devises to the Greenwood Cemetery Company of Brooklyn, New York, in sections first, tenth and twelfth, are void, as being in violation of the rule against perpetuities and also for uncertainty and unreasonableness.

6. That your respondents answering further allege that the provision contained in paragraph ten of said will directing $5000 to be raised out of testatrix's estate and expended in erecting a suitable monument at the grave of E. L. Andrews in Greenwood cemetery is void on account of uncertainty, because no person is specifically charged with the trust, and no one is designated as a person competent to pass upon a "suitable monument." Furthermore the will provides that $5000 shall be expended in "erecting" a monument, but does not provide how much money is to be expended in its purchase. The respondents further allege that said provision is void for unreasonableness, because the sum allotted for such monument is largely in excess of that usually expended for such a purpose by those in the station of life occupied by the said testatrix and her late husband, and exceeds the sum necessary for the purpose designated. That the said testatrix was for a number of years before her death employed in one of the departments of the Government on a very meagre salary and was by nature and habit of a very penurious disposition, and from her small salary she saved through economy and by depriving herself of many of the comforts of life, a greater part of the small fortune she now desires to leave to the cemetery company. That neither the said testatrix nor her husband at the time of their decease had any title or claim to

17 the Andrews cemetery lot or any right of interment therein and the owner thereof would have the right to prevent the

erection of said monument thereon if he or she so desired. That upon information and belief respondents charge that the ashes of the said testatrix have not been placed in the cemetery lot, and it is not known by your respondents whether there is objection to their interment there by the owner, or whether it is because the Andrews cemetery lot designated in the will can not be located.

7. That your respondents answering further say that the several bequests and devises, in paragraphs designated first, tenth, and twelfth of the said will and testament of Annie E. I. Andrews are void for uncertainty for the reason that not less than twenty lots in the said cemetery are owned by parties bearing the name of Andrews and are known as Andrews cemetery lots and the location of the one intended by testatrix will be difficult, if not impossible to fix.

8. That your respondents answering further say that the said testatrix by and under the terms of her will nominated D. T. Iglehart and Howard Iglehart as co-executors of her said last will and testament, but that the said D. T. Iglehart renounced the executorship and thereafter the said Howard Iglehart qualified as sole executor.

9. That your respondents answering further upon information and belief say that the said Greenwood Cemetery Company has no power under its charter to hold property as trustees for the use and benefit of individuals and it has no power under its charter
18 to hold and sell property and to re-invest the proceeds derived from any such sale for the purposes designated in said will.

10. That answering further your respondents say that the provisions of said will relating to the care and attention to the said cemetery — are unreasonable because the income from the trust fund attempted to be created therein would greatly exceed the amount necessary for the preservation of the said lot. That an income of $12 per year would be amply sufficient for that purpose.

And now having fully answered, respondents pray to be hence dismissed.

MARY I. POLK.
H. F. IGLEHART.
FANNIE GIESON.
GENEVIVE IGLEHART.
LILLIE MIMS, *Per Counsel.*
EDWIN E. WILSON,
Per Counsel.
EMMA HEWITT.
FRANK F. LEE, *Per Counsel.*
WALTER R. LEE.
M. B. LEE, *Per Counsel.*

WALTER C. BALDERSTON,
WILSON & BARKSDALE,
Solicitors for Respondents.

Mary I. Polk on oath says she has read the foregoing answer by her subscribed and knows the contents thereof; that the statements therein made of her knowledge are true and those made upon information and belief she believes to be true.

MARY I. POLK.

18½ Subscribed and sworn to before me this 6th day. of December, 1904.

ALBERT HARPER,
[SEAL.] *Notary Public, D. C.*

Fannie Gieson and Genevive Iglehart on oath say they have read the foregoing answer by them subscribed and know the contents thereof; that the statements therein made of their personal knowledge are true and those made upon information and belief they believe to be true.

FANNIE GIESON.
GENEVIVE IGLEHART.

Subscribed and sworn to before me this 16th. day of December, 1904.

STERLING FISHER,
[SEAL.] *Notary Public, Hayes County, Texas.*

H. F. Iglehart, on oath says he has read the foregoing answer by him subscribed and knows the contents thereof, that the statements therein made of his knowledge are true and those made upon information and belief he believes to be true.

H. F. IGLEHART.

Subscribed and sworn to before me this 10th day of December, 1904.

J. M. SHARP,
[SEAL.] *Notary Public, Milan Co., Texas.*

19 *Answer of Guardian ad Litem.*

Filed Mar. 28, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Late of the District of Columbia, Deceased, Complainant,
vs.
H. F. IGLEHART ET AL., Defendants.
} Equity. No. 24938.

Joint Answer of Edward E., Pinson, and Ernest Hewitt, by Their Guardian *ad Litem.*

Now comes the said infants by their guardian *ad litem* and answering say:

That the said Edward E. Hewitt, Pinson Hewitt, and Ernest Hewitt are infants under the age of twenty one years and they therefore submit their rights and interests in the matters in question in this cause to the protection of the court.

MARY I. POLK,
Guardian ad Litem.

WILSON & BARKSDALE,
Solicitors for Respondent.

I do solemnly swear that I have read the foregoing answer by me subscribed and know the contents thereof; that the statements therein made of my personal knowledge are true and those made upon information and belief I believe to be true.

MARY I. POLK.

19½ Subscribed and sworn to before me this 28 day of March 1905.

J. R. YOUNG, *Clerk,*
By L. P. WILLIAMS, *Ass't Clerk.*

20 *Replication.*

Filed March 28, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of Will of Annie E. I. Andrews, Complainant,
vs.
HENRY F. IGLEHART ET AL., Defendant.
} Equity. No. 24938.

Complainant herein hereby joins issue with the several defendants herein.

T. L. JEFFORDS,
Solicitor for Complainant.

Agreed Statement of Facts.

Filed May 1, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Late of the District of Columbia, Deceased,

vs.

HENRY F. IGLEHART ET AL.

Equity. No. 24938.

It is hereby stipulated and agreed by and between counsel for the respective parties to the above entitled cause that said cause shall be heard upon the pleadings and the following agreed statement of facts in lieu of testimony, to wit:

21 That Annie E. I. Andrews died in the city of Washington, District of Columbia, which was her last domicil, on April 21, 1903, leaving a last will, a copy of which is offered as Complainant's "Exhibit A" and that complainant was jointly nominated with D. F. Iglehart as executor, but as the latter renounced, complainant duly qualified as sole executor.

That the said testatrix left personal property consisting mostly, of stocks and bonds to the amount of about $7,641.60 and a piece of real estate located in the city of Washington, District of Columbia, estimated at $3000.

That the relationship of the heirs at law and next of kin of said testatrix as set out in the bill of complaint is correct.

That the Greenwood Cemetery Company is a corporation and that the charter and amendments thereto are herewith filed and that they are the law of the State of New York now in force.

T. L. JEFFORDS,
C. H. STANLEY,
Solicitors for Complainant.
BERRY & MINOR,
Solicitors for Greenwood Cemetery Co.
WILSON & BARKSDALE,
W. C. BALDERSTON,
Solicitors for Heirs at Law and Next of Kin.

May 1, 1905.

Sworn to in open court by Tracy L. Jeffords, witness for complainants.

22 *Opinion of Justice Anderson.*

Filed July 11, 1905.

In the Supreme Court of the District of Columbia.

IGLEHART
vs.
IGLEHART ET AL. } In Equity. No. 24938.

WASHINGTON, D. C., FRIDAY, *May* 26, 1905—10 o'clock a. m,

The COURT: In the case of Iglehart *vs.* Iglehart *et al.*, a bill is filed for the construction of a will, in which two questions are presented for the determination of the court,—

First. Is the provision in the testatrix' will valid which directs that five thousand dollars shall be raised out of her estate for the purpose of erecting a monument at the grave of her husband?

Her next of kin contend that since her whole estate only amounts to ten thousand dollars, it was unreasonable for her to devote one-half of it to such use. This contention does not seem to be sound; and it seems to me it could not very seriously have been insisted upon. The testatrix was at perfect liberty to be either reasonable or unreasonable from the standpoint of other people, at least, in disposing of her estate; and unless mentally incompetent the disposition must be upheld. No attempt whatever has been made to raise any question here as to mental competency.

Second. Are the provisions in the testatrix' will valid which
23 leave to the Greenwood Cemetery Company, a New York corporation, her real estate in trust for the use of her brother and his wife for their lives or so long as it is kept in repair and the taxes paid, and at their death or upon failure to keep in repair or pay taxes the house to be sold, and the proceeds, together with the residue of her estate, to be invested in bonds, and the income therefrom to be used by the Greenwood Cemetery Company for the purpose of keeping the Andrews cemetery lot in New York in perpetual good order and condition?

There is no difficulty in getting at the intention of the testatrix conveyed by these provisions, and there is no uncertainty surrounding them. The residue of the testatrix's estate is given to the cemetery company in trust for the purpose stated, and furthermore, upon the death of the testatrix's brother and his wife, or earlier if they should fail to pay taxes or keep the real property in repair, the testatrix's real property is to be converted into money and held in trust by the cemetery company for the same purpose.

The sole question left for determination, therefore is whether there is any principle of law or public policy which prohibits the carrying out of the testatrix's expressed intention.

The contention urged by the heirs-at-law and next of kin of the testatrix is that trusts for keeping cemetery lots in perpetual good order and condition are void, both because they create perpetuities, and because they have no beneficiaries capable of enforcing them.

But whatever may have been the policy of the common law
24 in respect of trusts of this character, it is now expressly provided by statute in this District at the present day that the cemetery associations of this District may take and hold trusts of this character. I cite section 669 of the Code of this District, which I will not stop to read, as a very plain provision in this regard.

As was said by the United States Supreme Court in the case of Christian Union *vs.* Yount, 101 U. S., 360, it is not to be presumed to be against the public policy of the State for one of its citizens to convey property to a corporation of another State for the purpose of enabling it to carry out the objects of its creation, when that State permits its own corporations, organized for like purposes, to take and hold property within its limits.

The Greenwood Cemetery Company is expressly authorized by the laws of New York, the State of its creation, to take trusts of this character. Without stopping to read that authorization, it will be found in section 6 of the amendment to the charter of the cemetery company, which is attached as an exhibit to the bill.

Moreover, even apart from this provision in the Code of this District, it would seem that the trusts in the present case are valid.

So far as the real-estate itself is concerned, the trusts can by no means infringe the rule against perpetuities, because the will expressly directs that the land shall be sold upon the death of the life tenant at all events, and perhaps sooner; thus bringing the devise within a life or lives in being and twenty-one years thereafter.

And so far as the converted proceeds to be held and invested
25 by this New York corporation are concerned, the District of Columbia manifestly cannot be at all interested in the question of whether or not a perpetuity is created. While every State is vitally interested in the holdings of real-estate within its limits, it is not in legal contemplation a matter of concern to any State whether personal property should accumulate in the hands of corporations in any other State. It is for such other State to make such regulations in that connection as it sees fit; and in the present case the State of New York has passed a law permitting its cemetery corporations to take and hold trusts for keeping cemetery lots in perpetual order and condition.

I have cited in my opinion here numerous authorities, including:

Thompson on Corporations, vol. V, sec. 5829, 1894 edition.
Van Sant *vs.* Roberts, 3 Maryland, 11.
Brown *vs.* Tompkins, 49 Maryland, 423.
Church Extension *vs.* Smith, 56 Maryland, 362, 389.
Stickney Will case, 83 Maryland, 325.

A decree will accordingly be signed placing upon the will in question the construction indicated.

THOS. H. ANDERSON, *Justice.*

26 *Decree Construing Will.*

Filed June 2, 1905.

In the Supreme Court of the District of Columbia, Holding an Equity Court.

J. HOWARD IGLEHART, Executor, &c., Complainant,
vs.
HENRY F. IGLEHART ET AL., Defendants. } In Equity. No. 24938.

This cause coming on to be heard upon the pleadings and proof and being argued by counsel on both sides and considered by the court, it is this 2d. day of June, A. D. 1905, by the court adjudged, ordered and decreed that the last will and testament of Annie E. I. Andrews, and the provisions thereof making certain devises and bequests to the Green-wood Cemetery Company of New York in trust for certain purposes therein stated, and also for the erection of a suitable monument at the grave of the husband of the testatrix in the Green-wood cemetery of New York, are in all respects good and valid; and the complainant, the executor of said last will and testament, be and he hereby is authorized to carry into effect the provisions of the same.

It is further adjudged, ordered and decreed that the complainant in this cause pay the costs of suit.

By the court:

THOS. H. ANDERSON, *Justice.*

27 *Order Allowing Severance.*

Filed June 14, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART ET AL.
vs.
HENRY F. IGLEHART ET AL. } Equity. No. 24938. 55.

Upon consideration of the motion of Henry F. Iglehart and Mary I. Polk, parties defendant in the above entitled cause, for leave to sever from their co-defendants and prosecute an appeal from the final decree in this court to the Court of Appeals of the District of

Columbia, alone, and in their own names, it is this 14th day of June, 1905, ordered that Henry F. Iglehart and Mary I. Polk, be and they are hereby allowed to sever from their co-defendants to prosecute their appeal to said Court of Appeals alone and in their own names.

And it appearing that notice of said appeal was given in open court at the time of signing said decree, it is ordered that the appeal bond for costs on said appeal be, and the same is hereby fixed at one hundred dollars ($100).

THOS. H. ANDERSON, *Justice.*

Memorandum.

June 22, 1905.—Appeal bond filed.

28 *Appellant's Designation of Record.*

Filed June 27, 1905.

In the Supreme Court of the District of Columbia.

J. HOWARD IGLEHART
vs.
HENRY F. IGLEHART ET AL. } Equity. No. 24938.

The clerk in preparing the transcript of record for the Court of Appeals in this case will embody the following papers:

1. Complainant's bill filed October 3, 1904, and copy of will "Ex. A."
2. Answer of Greenwood Cemetery Company, and paragraph six of "Exhibit A," same being the act of incorporation and amendments.
3. Answer of the defendants filed January 5, 1905.
4. Replication filed March 28, 1905.
5. Agreed statement of facts filed May 1, 1905.
6. Opinion of the court.
7. Decree construing will passed June 2, 1905.
8. Order, allowing severance and fixing bond, passed June 14, 1905.
9. Memorandum of bond filed June 22, 1905.

WILSON & BARKSDALE,
WALTER C. BALDERSTON,
Solicitors for Appellants.

20 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, *District of Columbia,* } ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 28, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copy of which is made part of this transcript, in cause No. 24938, in equity, wherein J. Howard Iglehart, executor &c., is complainant, and Henry F. Iglehart, *et al.*, are defendants, as the same remains upon the files and of record in said court.

Seal Supreme Court of the District of Columbia.

In testimony whereof, I hereunto subscribe my name and affix the seal of said court, at the city of Washington, in said District, this 1st day of August, A. D., 1905.

JOHN R. YOUNG, *Clerk,*
By S. McCOMAS HAWKEN, *Ass't Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1593. Henry F. Iglehart *et al.*, appellants, *vs.* J. Howard Iglehart, executor, &c. Court of Appeals, District of Columbia. Filed Aug. 2, 1905. Henry W. Hodges, clerk.

WEDNESDAY, *October* 18*th, A. D.* 1905.

No. 1593.

HENRY F. IGLEHART and MARY I. POLK, Appellants,
vs.
J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Deceased.

The argument in the above entitled cause was commenced by Mr. N. W. Barksdale, attorney for the appellants, and was continued by Messrs. H. B. Rowland and B. S. Minor, attorneys for the appellee, and was concluded by Mr. Andrew Wilson, attorney for the appellants.

No. 1593.

HENRY F. IGLEHART and MARY I. POLK, Appellants,
v.
J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Deceased.

Opinion.

(Mr. Justice DUELL delivered the opinion of the court:)

This is an appeal from a decree holding valid the last will and testament of Annie E. I. Andrews, and its provisions making certain devises and bequests to the Greenwood Cemetery Company of New York.

The record discloses that the deceased, a resident of the District of Columbia, died in 1903, leaving a will dated March 19, 1903. The amount of the estate was something over $10,000, of which $3,000 was in real estate situate in the District, and the balance personalty. The will having been duly probated, the executor filed this bill for its construction. The heirs contend that clauses one, ten, and twelve are invalid. The first clause devised and bequeathed to the Greenwood Cemetery Company of Brooklyn, N. Y., as trustees, the real property which consisted of a house and lot. This was to be held in trust for the use of decedent's brother and his wife during their life, or the life of either of them, provided that they kept the property in repair and paid the taxes on it. At their death, or upon their failure to comply with the recited condition, the property was to be sold and the proceeds invested in United States securities, the income therefrom to be used by the cemetery company, as trustees, for the purpose of keeping the Andrews' lot in perpetual good order. The tenth clause directed that $5,000 be taken from the estate to be expended for a monument at the grave of her husband, E. L. Andrews, in Greenwood Cemetery. The twelfth clause directed that the residue of her property, after payment of legacies, debts, and the like, be converted into cash and invested in United States securities, and the income therefrom be used by the cemetery company, as

trustees, as an additional fund for the preservation and care of the lot before referred to. The case was heard by stipulation upon the pleadings and an agreed statement of facts. The admitted facts do not require to be set forth as, in our opinion, they do not affect the decision at which we have arrived.

The assigned errors are three in number and relate respectively to the validity of the device of the real estate to the cemetery company, the validity of the residuary bequest, and the validity of the provision for the erection of the monument.

The latter will be first passed upon. There seems to be no question that the decedent's husband was buried in Greenwood Cemetery, and no trouble arises in locating the lot. There is no trouble in carrying out the provision of the will providing for the erection of the monument and no difficulty in upholding the clause relating to it and separating it from the other provisions attacked. The deceased was admittedly of sound mind, left no husband or children surviving her, and was under no legal obligation to leave her property for the support of her relatives. It may be conceded, as claimed, that the amount is greater than ordinarily expended for such a purpose by those in the same station of life as decedent without warranting us in holding that the provision should be overthrown. The court below was not in error in upholding it, and we agree with the conclusion of the learned justice in upholding it and with the reasons adduced by him.

The question of the validity of the bequest of the real estate presents a more serious question. It is contended with much force that the conveyance, or attempted conveyance, of the real estate to the trustee creates a perpetuity, and is, therefore, void. If there were no exceptions to the general provisions of the law applicable to the subject we would be compelled to hold that the devise was unquestionably void, but there are exceptions, and the question ultimately to be decided is whether this devise falls within the exceptions or of any of them.

It is urged on behalf of the Greenwood Cemetery Company that the bequest is valid because it is for a charitable use. At least many of the cases referred to by it are cases where such bequests have been been sustained as being for charitable uses. We think, however, that the bequest can not be upheld on such ground, for the weight of authorities is that bequests for the care of burial lots are void as creating perpetuities, for such uses are not charitable. Bates *v.* Bates, 134 Mass. 110, and many English cases there cited.

The ground upon which the bequest must be sustained, if upon any, is that the laws of the District of Columbia provide that cemetery companies incorporated under its laws can take and hold real estate and personal property, and use the income thereof for the care of cemetery lots, monuments, etc.; and though it is contended by appellants that as the Greenwood Cemetery Company is not incorporated under the District laws, this exception contained in section 669 of the Code does not apply, yet it is admitted that the laws of the State of New York, under which the Greenwood Cemetery Company is incorporated, permit it to take real and personal property

for the purpose of using the income for the care of cemetery lots, renewal of monuments, etc. It will be seen, therefore, that the policy of the law of the District of Columbia, where the deceased was domiciled, makes a clear exception to the common law, and also to the statutory law of the District, so far as cemetery companies incorporated under the laws of the District are concerned; and that the laws of the State of New York, where the proceeds of the real estate are designed to be taken, and where the trustee has its legal abode, permits the trustee to take and hold real and personal property, and creates the same exception. It scarcely seems possible that Congress intended to be so narrow as would be the case if it intended, in permitting cemeteries incorporated under the laws of the District to take and hold property for the purpose specified, to refuse to recognize a like right in similar companies incorporated under the laws of the various States where a like privilege was granted. We think rather that Congress considered that it was necessary to specify companies organized in the District in order that they could acquire and hold property for the purpose specified, and believed it unnecessary to provide that such companies, incorporated under the laws of the States in which they were given like privileges, could take real and personal property situated in the District, and which was to be taken out of the District and administered elsewhere. It is fair to presume that Congress knew of and recognized the rule now well established and generally followed that, "while the laws of the testator's domicile govern as to the formal requisites essential to the validity of the will, the capacity of the testator and the construction of the instrument, the validity of particular bequests depends (unless expressly prohibited by the law of the testator's domicile) upon the law of the domicile of the legatee." Congregational Unitarian Society *v.* Hale, 29 Appl. Div. (N. Y.) 396.

The rule of comity permitting a foreign corporation to acquire and hold lands by devise is now generally recognized, provided their charters permit them so to do, and no prohibition is found in the laws or public policy of the domestic State. Am. & Eng. Ency. Law, vol. 13, page 856, 2d ed. The public policy of the District of Columbia permits in express terms, as shown by express legislation, its cemetery corporations to receive such bequests. The State of New York permits the Greenwood Cemetery Company to hold such bequests as the one in question. It seems to us that it follows from the general law of comity prevailing among the various States of the Union, that we should recognize and uphold the right of this appellee to receive the bequests provided by the will. While there is some conflict in the decisions of the courts of the various States, we think that the decisions of the United States Supreme Court, which are controlling upon us, favor this doctrine of comity. Christian *v.* Yount, 101 U. S. 352. In the light of the decision in that case, it can not be successfully contended that something which the District of Columbia permits to its own corporations is so far against its public policy that it will not permit persons domiciled within its territory to devise their property to be used for the same purpose by a foreign corporation authorized by its own charter to receive and

administer such bequests. But the position of the appellee is, we think, much stronger, for we have treated the property devised by the first clause of the will as real property. It appears that the will expressly directs that the real estate shall be sold upon the death of the life tenants, and perhaps sooner. The proceeds are to be invested in personal property. The authorities are quite well agreed that such express direction of sale, though the time of sale is not immediate, operates to convert the property into personalty from the death of the testator. Hope *v.* Brewer, 136 N. Y. 126; Reiff & Brinkley *v.* Strite, 54 Md. 298. It is unnecessary to multiply authorities upon this point. The real estate being once converted into personalty, it matters even less than in the case of real estate, to the District of Columbia whether such property goes into the hands of a foreign corporation to be held in trust as a perpetuity, or whether it be put to other uses. The District of Columbia, and its residents, are more interested in having the right of foreign cemetery companies to take property, real and personal, situate in the District, for the purpose of the care of cemetery lots, and the maintenance and care of monuments erected thereon, recognized, than other States or their residents can be, for the reason that so many of the people domiciled in the District come from other localities, or are the descendants of those who came from such localities, and, while passing their lives here, expect upon death to be laid in cemeteries located outside the District and which are not incorporated under its laws. In considering the policy of the laws of the District we think this fact should not be lost sight of, and in interpreting its laws we must bear in mind that they are enacted by Congress, which represents all sections of our common country. The law of comity should therefore be recognized even more broadly here than elsewhere, in all questions like the one under consideration.

Irrespective, however, of the peculiar conditions which here exist, we think the weight of authority upholds the decision of the lower court; and, while we were much impressed by the full and careful presentation of appellants' counsel, we do not find sufficient cause for holding that any error was committed in upholding clauses 1 and 12 of the will.

We do not think it necessary to here pass upon the question whether the Greenwood Cemetery Company has power under its charter to act as trustee in the District of Columbia for property here located, and no power to convert the real estate into personalty, for the reason that equity will not allow the trust to fail for want of a trustee, but will, if necessary, appoint a trustee to carry it into effect.

There being no reversible error committed by the court below, it follows that the decree appealed from should be affirmed, with costs. And it is so ordered.

WEDNESDAY, *November 8th, A. D.* 1905.

No. 1593. October Term, 1905.

HENRY F. IGLEHART and MARY I. POLK, Appellants,
vs.
J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Deceased.

Appeal from the Supreme Court of the District of Columbia.

This cause came on to be heard on the transcript of the record from the Supreme Court of the District of Columbia, and was argued by counsel. On consideration whereof, it is now here ordered, adjudged and decreed by this Court that the decree of the said Supreme Court in this cause be and the same is hereby affirmed with costs.

Per Mr. JUSTICE DUELL.

November 8, 1905.

FRIDAY, *November 10th, A. D.* 1905.

No. 1593.

HENRY F. IGLEHART and MARY I. POLK, Appellants,
vs.
J. HOWARD IGLEHART, Executor of the Last Will and Testament of Annie E. I. Andrews, Deceased.

On motion of Mr. Andrew Wilson, of counsel for the appellants in the above entitled cause, it is ordered by the Court that said appellants be allowed an appeal to the Supreme Court of the United States, and the bond for costs is fixed at the sum of three hundred dollars.

(Bond on Appeal.)

Know all men by these presents, that we, Henry F. Iglehart and Mary I. Polk, as principals, and The United States Fidelity and Guaranty Co. are held and firmly bound unto J. Howard Iglehart, Executor and the Greenwood Cemetery Company, a corporation, in the full and just sum of Three Hundred dollars, to be paid to the said J. Howard Iglehart, Executor and the Greenwood Cemetery Company, a corporation, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 9th day of November, in the year of our Lord one thousand nine hundred and five.

Whereas, lately at a Court of Appeals of the District of Columbia in a suit depending in said Court, between Henry F. Iglehart and Mary I. Polk against J. Howard Iglehart and the Greenwood Cemetery Co., the same being No. 1593, a decree was rendered against the

said Henry F. Iglehart and Mary I. Polk and the said Henry F. Iglehart and Mary I. Polk, having prayed and obtained an appeal to the Supreme Court of the United States to reverse the decree in the aforesaid suit, and a citation directed to the said J. Howard Iglehart, Executor and The Greenwood Cemetery Company, a corporation, citing and admonishing them to be and appear at a Supreme Court of the United States, at Washington, within thirty days from the date thereof;

Now, the condition of the above obligation is such, That if the said Henry F. Iglehart and Mary I. Polk, shall prosecute said appeal to effect, and answer all costs if they fail to make their plea good. then the above obligation to be void; else to remain in full force and virtue.

HENRY F. IGLEHART. [SEAL.]
MARY I. POLK. [SEAL.]
THE UNITED STATES FIDELITY & GUARANTY CO., [SEAL.]
By J. S. SWORMSTEDT, [SEAL.]
Attorney in Fact.

[Seal of United States Fidelity & Guaranty Co.]

Sealed and delivered in presence of—
—— ——.

Approved by—
SETH SHEPARD,
Chief Justice Court of Appeals of the District of Columbia.

[Endorsed:] No. 1593. Henry F. Iglehart and Mary I. Polk, Appellants, *vs.* J. Howard Iglehart, Executor of the last will and testament of Annie E. I. Andrews, deceased. Bond on appeal to Sup. Court U. S. Court of Appeals, District of Columbia. Filed Nov. 23, 1905. Henry W. Hodges, Clerk.

UNITED STATES OF AMERICA, *ss:*

To J. Howard Iglehart, Executor of the Last Will and Testament of Annie E. I. Andrews, deceased, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to an order allowing an appeal, filed in the Clerk's Office of the Court of Appeals of the District of Columbia, wherein Henry F. Iglehart and Mary I. Polk are appellants and you are appellee, to show cause, if any there be, why the decree rendered against the appellants, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness, the Honorable Seth Shepard, Chief Justice of the Court of Appeals of the District of Columbia, this 23d day of November, in the year of our Lord one thousand nine hundred and five.

SETH SHEPARD,
Chief Justice of the Court of Appeals of the District of Columbia.

[Endorsed:] Court of Appeals, District of Columbia. Filed Dec. 4, 1905. Henry W. Hodges, Clerk.

Service admitted this 29th day of November, 1905.

C. H. STANLEY,
Attorney for J. Howard Iglehart, Executor, &c.

Court of Appeals of the District of Columbia.

I, Henry W. Hodges, Clerk of the Court of Appeals of the District of Columbia, do hereby certify that the foregoing printed and typewritten pages numbered from 1 to 26 inclusive contain a true copy of the transcript of record and proceedings of said Court of Appeals in the case of Henry F. Iglehart and Mary I. Polk, Appellants, *vs.* J. Howard Iglehart, Executor of the last will and testament of Annie E. I. Andrews, deceased, No. 1593, October Term, 1905, as the same remain upon the files and records of said Court of Appeals.

In testimony whereof I hereunto subscribe my name and affix the seal of said Court of Appeals, at the City of Washington, this 4th day of December, A. D. 1905.

[Seal Court of Appeals, District of Columbia.]

HENRY W. HODGES,
Clerk of the Court of Appeals of the District of Columbia.

Endorsed on cover: File No. 20,008. District of Columbia Court of Appeals. Term No. 158. Henry F. Iglehart and Mary I. Polk, appellants, *vs.* J. Howard Iglehart, executor of the last will and testament of Annie E. I. Andrews, deceased. Filed December 8th, 1905. File No. 20,008.